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the second motor and extending around the two timing pulleys so that when the two shafts are rotated by the second motor, the shafts move in time.

REMARKS

Claims 1-15 are pending. The final rejections of claims 1-15 were appealed. Claim 15 has been amended. In view of the above amendments and the following remarks, Applicant respectfully requests reconsideration of the rejected claims.

Decision on Appeal

The rejection of claims 14 and 15 under 35 U.S.C. § 112, second paragraph, was appealed. The rejection of claim 14 was not sustained. The rejection of claim 15 was sustained.

The rejection of claims 1 to 13 under 35 U.S.C. § 101 on the grounds of double patenting over claims 1 to 13 of Haney '287 (U.S. 5,702,287) was appealed. The rejection was not sustained.

The rejection of claims 14 and 15 on the grounds of double patenting over Haney '414 (U.S. 5,443,414) was appealed. The rejection was not sustained.

Claims 1 to 13 are newly rejected on the grounds of the judicially created doctrine of obviousness-type double patenting over claims 1 to 13, respectively, of Haney '287.

Claims 2 and 5 are rejected under 35 U.S.C. § 102(a) as being anticipated by Applicant's admitted prior art (APA).

The application was remanded to the Examiner in order to determine whether claims 14 and 15 should be rejected over any of the claims of Haney '414 on the ground of obviousness-type double patenting.

Objections under 37 C.F.R. § 1.75

The Board of Appeals and Interferences has noted that selected claim language does not appear to have clear antecedent basis in the specification, as required by 37 C.F.R. § 1.75(d)(1). In particular, the Board indicated that the following phrases do not have clear antecedent basis in the specification:

- a) “one thousand to five thousand inches-per-minute” in claim 3, at line 12;
- b) “with an average magnitude between 1/15 and 1/60 of that of the first speed” in claim 4, at line 2; and
- c) “a series of loops extending generally back and forth across a portion of the generally planar surface and extending generally along the generally planar surface in the conveyor feed direction” in claim 12, at lines 3 to 5.

Applicant has amended the specification at page 7, lines 11-18 to insert antecedent basis for the phrase “one thousand to five thousand inches-per-minute” in claim 3, and the phrase “with an average magnitude between 1/15 and 1/60 of that of the first speed” in claim 4. Support for the amendment is found in claim 3 as originally filed, and claim 4 as originally filed. Applicant has amended the specification at page 2, lines 18-21 to provide antecedent basis for the phrase “a series of loops extending generally back and forth across a portion of the generally planar surface and extending generally along the generally planar surface in the conveyor feed direction” in claim 12. Support for the amendment is found in claim 12 as originally filed.

In view of the above amendments to the specification, Applicant respectfully

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suggests that the terms and phrases used in the claims have clear support or antecedent basis in the specification, and that the claims are therefore in compliance with the requirements of 37 C.F.R. § 1.75(d)(1).

Rejections under 35 U.S.C. § 112

Claim 15 has been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the phrase “the second and third shafts” is without proper antecedent support.

Applicant has amended claim 15 to replace the reference to “the second and third shafts” with a reference to “the two shafts”. Claim 15, as amended, complies with 35 U.S.C. § 112, second paragraph, be withdrawn.

New Rejections Pursuant to 37 C.F.R. § 1.196(b)

The Board rejected claims 1-13 under the judicially created doctrine of obviousness-type double patenting over claims 1 to 13 of Haney ‘287. Applicant hereby provides a terminal disclaimer over the Haney patent U.S. 5,702,287.

In view of the submission of a properly executed terminal disclaimer, with the appropriate terminal disclaimer fee under 37 C.F.R. § 1.20(d), Applicant respectfully requests the withdrawal of the rejection of claims 1-13 under the judicially created doctrine of obviousness-type double patenting.

The Board rejected claims 2 and 5 under 35 U.S.C. § 102(a) as being anticipated by admitted prior art (Applicant’s specification). In the interest of facilitating prosecution of the application, Applicant has canceled claims 2 and 5 without prejudice. Therefore,

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the rejection of those claims under 35 U.S.C. § 102(a) is rendered moot.

Remanded to the Examiner

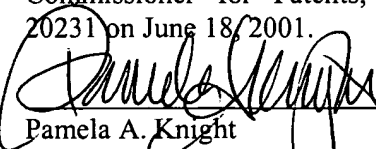
The Board has remanded the application to the Examiner in order to determine whether claims 14 and 15 should be rejected over any of the claims of Haney '414 on the ground of obviousness-type double patenting.

As previously indicated in the Appellants Brief, the invention of claims 14 and 15 differ from the invention of any of claims 2, 4, 5, 10, and 11 of Haney '414 in that the instant claims include a moveable brace "operatively connected" to a drive shaft, instead of being "linked to" a drive shaft. In addition, Applicant notes that claims 2 and 5 require "a sheet of sandpaper", while the instant claims require "an abrasive associated with the platen to abrade the wood products". Applicant respectfully submits that a rejection under the judicially created doctrine of obviousness-type double patenting is not appropriate.

As required by 37 C.F.R. § 1.121, the Applicant has provided a separate, marked-up version of the amendments to the specification and claims, showing the changes relative to the previous versions of the specification and claims (attached).

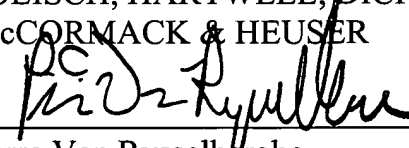
CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, to: Commissioner for Patents, Washington, D.C. 20231 on June 18, 2001.


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Date of Signature: June 18, 2001

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE SPECIFICATION:

(Insertions are shown in **bold and underline**, and deletions are shown in [~~brackets and strikeout~~])

The paragraph at page 2, lines 18-21 is amended as follows:

A product placed on the conveyor is fed toward the abrasive and platen, both of which are moving in a dual orbit. The first orbit is a high speed circular motion. As stated, the abrasive and platen are supported by a brace and the brace, platen and abrasive are all moved in a second orbit. The second orbit is also circular but at a much lower speed. **The combination of the motions of the first orbit and the second orbit generally results in a single point on the abrasive and platen moving to produce a contact pattern on the product that includes a series of loops extending generally back and forth across a portion of the product surface and extending generally along the product surface in the conveyor feed direction.**

The paragraph at page 7, lines 11-18 is amended as follows:

As can be understood from the structure described so far, platen 100 moves in two orbits, one created by the rotation of shafts 102 and 104 and the other created by the rotation of brace 70. This dual rotation simulates the motion of sanding by hand. Shafts 102 and 104 typically rotate at 3,000 to 12,000 revolutions per minute while shafts 72 and 74 typically rotate at approximately 200 revolutions per minute. **In one aspect of the invention, the rotation of shafts 102 and 104 produce a first circular translational orbit speed of from one thousand to five thousand inches-per-minute.**

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In an additional aspect of the invention, the rotation of shafts 72 and 74 result in a second circular translation orbit speed that has an average magnitude that is between 1/15 and 1/60 of that of the first speed. Shafts 102 and 104 may rotate in the same direction or in the opposite direction as shafts 72 and 74. Any structure capable of driving the platen and abrasive in one or more orbits may be used, such as the motor and drive shaft structure described above.

IN THE CLAIMS:

Claims 2 and 5 have been canceled without prejudice.

Claims 15 has been amended as follows (material to be inserted is in **bold and underline**, material to be deleted is in [~~brackets and strikeout~~):

15. (Twice Amended) The sander of claim 14 further comprising two timing pulleys, one on each of the two shafts supported by the brace and a timing belt driven by the second motor and extending around the two timing pulleys so that when the [~~second and third~~] **two** shafts are rotated by the second motor, the shafts move in time.

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